Texas Department of Insurance
Division of Workers' Compensation
Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645
512-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name
ERIC A VANDERWERFF DC

Respondent Name
NEW HAMPSHIRE INSURANCE CO

MFDR Tracking Number
M4-14-1775-01

Carrier's Austin Representative
Box Number 19

MFDR Date Received
FEBRUARY 18, 2014

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "**The carrier, Coventry, APPROVED 80 units of an Outpatient Medical Rehabilitation program from 8/12/13 to 11/12/13…another 80 units from 10/7/13 to 12/31/13…The outstanding services…were deemed medically necessary by the carrier and should be paid accordingly**…We are exempt from the limitation of 3 FCEs per compensable injury, because these FCEs that we are REQUIRED to perform, as per the ODG (which is required by DWC's Rules), are exempted by §134.202…**all of our FCEs are also allowed to last for up to four hours per test.**"

Amount in Dispute: $1,449.80

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary Dated February 28, 2014: "We will submit a supplemental response upon completion of the pending review. The carrier will contact the provide to discuss resolution and withdrawal of the MDR once the bill processing has been finalized."

Response Submitted by: Gallagher Bassett Services, Inc.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
September 26, 2013	CPT Code 97750-FC (14 units) Functional Capacity Evaluation	$681.80	$655.35
September 10, 2013 through October 16, 2013	CPT Code 97799-MR (6 units) 10 dates Outpatient Medical Rehabilitation Program	$72.00/day X 10 days = $720.00	$768.00
September 26, 2013	CPT Code 97799-MR (4 units) Outpatient Medical Rehabilitation Program	$48.00	
TOTAL		$1,449.80	$1,423.35

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.204 and §134.203, effective March 1, 2008, sets the reimbursement guidelines for the disputed service.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:

   Explanation of benefits
   - B1-(B12)-Services not documented in patients' medical records.
   - 45-Charge exceeds fee schedule/maximum allowable or contracted/legislated fee arrangement.
   - 18-Duplicate claim/service.

Issues

1. Does a contractual agreement issue exist in this dispute?
2. Is the requestor entitled to reimbursement for the functional capacity evaluation rendered on September 26, 2013?
3. Is the requestor entitled to reimbursement for outpatient medical rehabilitation services rendered from September 10, 2013 through October 16, 2013?

Findings

1. According to the submitted explanations of benefits, the insurance carrier reduced or denied disputed services with reason code "45-Charge exceeds fee schedule/maximum allowable or contracted/legislated fee arrangement ." Review of the submitted information found no documentation to support that the disputed services were subject to a contractual agreement between the parties to this dispute. The respondent has not supported the above denial/reduction explanation. For this reason, the disputed services will be reviewed for payment in accordance with applicable Division fee guidelines.

2. CPT code 97750 is defined as "Physical performance test or measurement (eg, musculoskeletal, functional capacity), with written report, each 15 minutes."

   28 Texas Administrative Code §134.204 (g) states "The following applies to Functional Capacity Evaluations (FCEs). A maximum of three FCEs for each compensable injury shall be billed and reimbursed. FCEs ordered by the Division shall not count toward the three FCEs allowed for each compensable injury. FCEs shall be billed using CPT Code 97750 with modifier "FC." FCEs shall be reimbursed in accordance with §134.203(c)(1) of this title. Reimbursement shall be for up to a maximum of four hours for the initial test or for a Division ordered test; a maximum of two hours for an interim test; and, a maximum of three hours for the discharge test, unless it is the initial test. Documentation is required."

   A review of the submitted documentation finds that the requestor noted that this was the exit FCE.. No documentation was submitted to dispute that this was the third and final FCE; therefore, per 28 Texas Administrative Code §134.204 (g), the September 26, 2013 FCE was the discharge test.

   Per 28 Texas Administrative Code §134.203(c)(1)(2), "To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications.
   (1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is $52.83. For Surgery when performed in a facility setting, the established conversion factor to be applied is $66.32.

   (2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year. The following hypothetical example illustrates this annual adjustment activity if the Division had been using this MEI annual percentage adjustment: The 2006 Division conversion factor of $50.83 (with the exception of surgery) would have been multiplied by the 2007 MEI annual percentage increase of 2.1 percent, resulting in the $51.90 (with the exception of surgery) Division conversion factor in 2007."

   To determine the MAR the following formula is used: (DWC Conversion Factor/Medicare Conversion Factor) X Participating Amount = Maximum Allowable Reimbursement (MAR).

   The 2013 DWC conversion factor for this service is 55.3.

The Medicare Conversion Factor is 34.023

Review of Box 32 on the CMS-1500 the services were rendered in zip code 75061 in Irving, Texas. Per Medicare the provider is reimbursed using the locality of Dallas, Texas.

The Medicare Participating amount for code 97750 is $33.60/15 minutes.

Using the above formula, the Division finds the following:

DATE	TEST	No. of Units Billed	No. of Units Allowed per 28 Texas Administrative Code §134.204 (g)	TOTAL MAR	TOTAL PAID	AMOUNT DUE
1/18/2013	97750-FC	14	12 for Discharge Test	$655.35	$0.00	$655.35

3. 28 Texas Administrative Code §134.204(h)(1)(B) states "If the program is not CARF accredited, the only modifier required is the appropriate program modifier. The hourly reimbursement for a non-CARF accredited program shall be 80 percent of the MAR."

   28 Texas Administrative Code §134.204(h)(4)(A) and (B) states "4) The following shall be applied for billing and reimbursement of Outpatient Medical Rehabilitation Programs.
   (A) Program shall be billed and reimbursed using CPT Code 97799 with modifier "MR" for each hour. The number of hours shall be indicated in the units column on the bill. CARF accredited Programs shall add "CA" as a second modifier.

   (B) Reimbursement shall be $90 per hour. Units of less than one hour shall be prorated by 15 minute increments. A single 15 minute increment may be billed and reimbursed if greater than or equal to eight minutes and less than 23 minutes."

   The Division finds that the requestor billed CPT code 97799-MR for 64 units on the disputed dates of service. Therefore, per 28 Texas Administrative Code §134.204(h)(1)(B) and (4)(A) and (B), the MAR for a non-CARF accredited program is $72.00 per hour ($90.00 X 80%). $72.00 times the 64 hours billed is $4,608.00. The respondent paid $3,840.00. The difference between the MAR and amount paid is $768.00. This amount is recommended for additional reimbursement.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is $1,423.35.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of $1,423.35 plus applicable accrued interest per 28 Texas Administrative Code §134.130 due within 30 days of receipt of this Order.

Authorized Signature

Signature	Medical Fee Dispute Resolution Officer	04/11/2014 Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012**.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.

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